

## **Appendix W Biological Opinion**

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This appendix contains the following material related to the Section 7 process for the Mid County Parkway project:

- December 9, 2014 “Initiation of Formal Consultation” letter from the Federal Highway Administration to the United States Fish and Wildlife Service (4 pages)
- February 11, 2015 Streamlined Formal Section 7 Consultation for the Mid County Parkway Project, Riverside County, California (Biological Opinion) (8 pages)

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U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**California Division**

December 9, 2014

650 Capitol Mall, Suite 4-100  
Sacramento, California 95814  
(916) 498-5001  
(916) 498-5008 (Fax)

In Reply Refer To:  
HDA-CA

Ms. Karin Cleary-Rose  
United States Fish and Wildlife Service  
777 Tahquitz Canyon Drive, Suite 208  
Palm Springs, CA 92262

**SUBJECT: Mid County Parkway - Initiation of Formal Section 7 Consultation**

Dear Ms. Cleary-Rose:

The Federal Highway Administration (FHWA) is initiating formal Section 7 consultation for the Mid County Parkway (MCP) Project (project or proposed action), pursuant to the Endangered Species Act. MCP generally runs in a west-east direction, located between Interstate 215 (I-215) in the City of Perris, California, and State Route 79 (SR 79) in the City of San Jacinto, near the Ramona Expressway, in northwestern Riverside County, California. The project is within the boundaries of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and is considered a covered activity. The project was recently reviewed by your agency to demonstrate consistency with the MSHCP. The project was determined to be consistent by the Western Riverside County Regional Conservation Authority on October 6, 2014 (JPR 14-03-03-01-Mid County Parkway). Your office issued a letter of concurrence on the Determination of Biologically or Equivalent or Superior Preservation (DBESP) for the MCP project on November 14, 2014.

The project requires Section 7 consultation due to the presence of six federally listed species; two of which have designated Critical Habitat in the project vicinity. Please reference the previously submitted MSHCP Consistency Determination and DBESP Analysis report (September 2014), the Addendum to the MSHCP Consistency Determination and DBESP Analysis letter report (October 2014), the Supplement to the Natural Environment Study (December 2011), and additional information prepared for the Administrative Draft Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS; distributed to the Service and other MCP partner agencies on November 25, 2014) for the consultation analysis.

## **Description of the Proposed Project**

The MCP project is proposed to be an approximately 16-mile-long, six-lane controlled-access freeway. The right-of-way width for the facility ranges typically from 200 feet to 350 feet. At locations of basins, in large cut or fill, and system interchange connector's right of way, width ranges typically from 400 feet to 700 feet. At interchange locations, the width varies from 350 feet to approximately 1700 feet wide for on and off ramps. The width varies due to the terrain and required roadway features. The facility would generally have three lanes in each direction with a wide (62-foot) median per Caltrans Highway Design Manual standard 305.1. The MCP project would generally follow a west-east alignment through the City of Perris along Placentia Avenue to the Ramona Expressway and terminate in the City of San Jacinto at SR 79. System interchanges are proposed at I-215 and SR 79 and service interchanges are also proposed at the following locations: Placentia Avenue (at I-215); Redlands Avenue; Evans Road; Ramona Expressway/Antelope Road; Bernasconi Road; Reservoir Avenue; Town Center Boulevard; Park Center Boulevard; Warren Road; and SR 79. Accommodations would also be made for existing local circulation to remain in place, where possible, such as at Martin Street in the Lakeview Area.

Additional features regarding the proposed project are identified in Section 2 of the MSHCP Consistency Determination Including DBESP report and Chapter 2 of the Administrative Draft Final EIR/EIS.

## **Impacts to Listed Species and Critical Habitat**

Impacts of the preferred alternative for the MCP project (Alternative 9 Modified with the San Jacinto River Bridge Design Variation) to federally listed species, their habitats and designated Critical Habitat are summarized in the table below. Pursuant to MSHCP Sections 6.1.2, 6.1.3, and 6.3.2, habitat suitability assessments and focused surveys were conducted for species within designated MSHCP survey areas and a suitable riparian habitat in 2005 and 2006. In areas where a suitable habitat was identified, focused surveys were conducted from March to July 2005 and from April to June 2006 for plant species; in July 2005 for San Bernardino Kangaroo Rat (SBKR), and May to July 2005 for Least Bell's Vireo (LBV) and southwestern willow flycatcher. No LBVs or Southwestern Willow Flycatchers were observed within the footprint of the modified alternatives; however, the Western Riverside County Regional Conservation Authority Biological Monitoring Program (BMP) provided a 2008 record of a pair of LBVs located in the San Jacinto River, west of Sanderson Avenue and, therefore, the LBV is determined to be present at the San Jacinto River area in the vicinity of SR-79. Additionally, although no SBKRs were captured during the 2005 trapping efforts for the project, the Riverside County Transportation Commission (RCTC) was made aware of other projects in the vicinity of the San Jacinto River at the SR 79 crossing that did find SBKRs. Therefore, the MCP Project presumed occupancy for SBKRs even though no SBKRs were trapped during MCP surveys. Impacts to species not requiring surveys under the MSHCP are based on impacts to suitable habitats, as identified in Table 1 in the MSHCP Consistency Analysis Determination, the DBESP report, and Table 3.21.B in the Administrative Draft Final EIR/EIS. Field work and aerial interpretation of land cover mapping was conducted in 2004, 2005, 2010, and updated in March, April, and September 2011.

Based on these surveys and the analyses in the above-referenced documents, the project “may affect and likely to adversely affect” San Jacinto Valley Crownscale (endangered), Spreading Navarretia (threatened), Coastal California gnatcatcher (threatened), Least Bell’s Vireo (endangered), San Bernardino Kangaroo Rat (endangered), and Stephens’ Kangaroo Rat (endangered).

### Impacts to Federally Listed Species and Critical Habitat

	Total Impacts <sup>1</sup> in Acres							
	Spreading Navarretia	Spreading Navarretia, Final Critical Habitat (10/7/2010)	San Jacinto Valley Crownscale	Coastal California Gnatcatcher (Riversidean Upland Sage Scrub) <sup>2</sup>	Stephens’ Kangaroo Rat (Riversidean Upland Sage Scrub and Grassland Communities) <sup>3</sup>	San Bernardino Kangaroo Rat, Final Reinstated Critical Habitat (4/23/2002) <sup>4</sup>	San Bernardino Kangaroo Rat Habitat	Least Bell’s Vireo (Occupied Riparian Habitat)
MCP Preferred Alternative (Alt 9 Modified SJRB DV)	1.09	18.6	0.36	86.3	194.3	1.5	1.29	3.6

Source: *Supplement to the Natural Environment Study* (December 2011), Western Riverside County Multiple Species Habitat Conservation Plan Consistency Determination and DBESP (November 2014), and Draft Final EIR/EIS (November 2014).

<sup>1</sup> Impacts to listed species are all calculated as permanent within the right-of-way boundary. This total amount identified in the table is a worst-case scenario and includes all permanent impacts as well as temporary impacts. Actual permanent impacts of the MCP project would be less than identified in this table.

<sup>2</sup> Impacts to coastal California gnatcatcher habitat identified in this table include all potentially suitable habitat (i.e., Riversidean upland sage scrub) within the project footprint regardless of the quality of the vegetation. Actual impacts to species are likely to be much less than identified because the majority of Riversidean upland sage scrub within the BSA provides marginal habitat for the coastal California gnatcatcher.

<sup>3</sup> Impacts to Stephens’ kangaroo rat habitat identified in this table include all potentially suitable habitat (i.e., Riversidean upland sage scrub, nonnative grassland, and alkali grassland) within the project footprint regardless of the quality of the vegetation. Actual impacts to this species are likely to be much less than identified because the majority of Riversidean upland sage scrub, nonnative grassland, and alkali grassland within the BSA provide marginal habitat for Stephens’ kangaroo rat.

<sup>4</sup> All San Bernardino kangaroo rat critical habitat within right-of-way boundary has primary constituent elements.

Temporary construction effects to animal species are expected as a result of human encroachment, construction vibration, dust, noise, and light. The extent of these temporary impacts to habitat for listed species is calculated entirely as permanent impacts. The analysis of impacts to listed species is based on a conservative (worst-case) right-of-way footprint that includes areas of cut-and-fill, staging areas for construction vehicles, equipment and materials, haul routes, and water quality treatment features. Some parts of this right-of-way footprint will only be temporarily disturbed during construction and would be revegetated with native plant species. However, the analysis of impacts conservatively estimates a worst-case impact scenario under which all areas within the right-of-way footprint are calculated as permanent impacts, with the exception of areas spanned by bridges. Although impacts to riparian habitats and jurisdictional areas at the bridged areas have been identified as temporary or permanent impacts, impacts to threatened or endangered species and critical habitats in these areas have all been calculated as permanent impacts within the MCP project footprint.

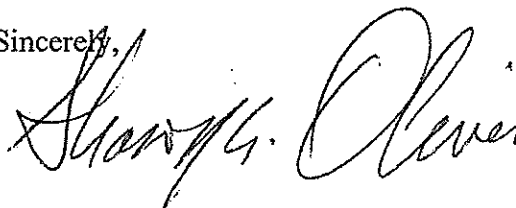
### Take Coverage through Habitat Conservation Plans

The above referenced species are covered species by the MSHCP, but the Stephens' Kangaroo Rat is also a covered species under the Habitat Conservation Plan for the Stephens' Kangaroo Rat (SKR HCP). While neither RCTC nor FHWA are permittees under the SKR HCP, incidental take coverage provided to the Riverside County Habitat Conservation Agency (RCHCA) by the SKR HCP can be extended to FHWA where the proposed action is consistent with the SKR HCP and its associated implementation agreement and permit. Public works projects, such as roads, are exempt from fee payment. Additionally, construction of transportation improvement projects are identified as a covered activity in the SKR HCP biological opinion (1-6-96-FW-27).

The MCP project has been determined to be consistent with the MSHCP, therefore, FHWA requests a streamlined Section 7 Biological Opinion for the take of the above-referenced species. Take is expected to be covered through compliance with Riverside County Transportation Commission's incidental take permit for the MSHCP and through the SKR HCP. Conservation measures to offset impacts to the above-referenced species and associated habitats are addressed in the MSHCP Consistency Determination and DBESP Analysis with additional measures are also identified in the Addendum to the DBESP Analysis, in the section titled, "Response to Wildlife Agency Comment A" and the Administrative Draft Final EIR/EIS.

If you have any questions regarding this Section 7 consultation for the Mid County Parkway project, please contact Larry Vinzant at (916) 498-5040 or email [larry.vinzant@dot.gov](mailto:larry.vinzant@dot.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Vincent P. Mammano". The signature is fluid and cursive, with the first name being the most prominent.

For: Vincent P. Mammano  
Division Administrator



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
Palm Springs Fish and Wildlife Office  
777 East Tahquitz Canyon Way, Suite 208  
Palm Springs, California 92262



In Reply Refer To:  
FWS-WRIV-08B0080-15F0117

Mr. Vincent P. Mammano  
Division Administrator  
650 Capitol Mall, Suite 4-100  
Sacramento, California 95814

FEB 11 2015

Subject: Streamlined Formal Section 7 Consultation for the Mid County Parkway Project,  
Riverside County, California

Dear Mr. Mammano:

This document transmits the U.S. Fish and Wildlife Service's (Service) biological opinion on the proposed Mid County Parkway Project (Project) and its potential effects on the federally endangered least Bell's vireo (*Vireo bellii pusillus*, vireo), San Jacinto Valley crownscale (*Atriplex coronata* var. *notatior*, crownscale), San Bernardino kangaroo rat (*Dipodomys merriami parvus*, SBKR), SBKR designated critical habitat, and Stephens' kangaroo rat (*Dipodomys stephensii*, SKR), in addition to the federally threatened coastal California gnatcatcher (*Polioptila californica californica*, gnatcatcher), spreading navarretia (*Navarretia fossalis*, navarretia), and navarretia designated critical habitat, and in accordance with section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). The proposed Project is receiving Federal funding from your agency, the Federal Highway Administration (FHWA). The Riverside County Transportation Commission (RCTC) and the California Department of Transportation (Caltrans) are the non-Federal Applicants (Applicants). We received your letter requesting initiation of formal consultation on December 12, 2014.

On June 22, 2004, the Service issued a section 10(a)(1)(B) permit for the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP). The MSHCP established a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species including crownscale, vireo, SBKR, SKR, navarretia, and gnatcatcher in association with activities covered under the permit. The proposed Project is located within the MSHCP plan area boundary. Caltrans and RCTC are MSHCP permittees. In order for the RCTC and Caltrans to receive incidental take authorization, the proposed action must be consistent with the MSHCP and its associated implementation agreement and permit. As a permittee under the MSHCP, the Applicants received incidental take authorization for crownscale, vireo, SBKR, navarretia, and gnatcatcher for the proposed Project through their section 10(a)(1)(B) permit for that plan.

The proposed Project is also located within the plan area boundary of the *Habitat Conservation Plan for the Stephens' Kangaroo Rat in Western Riverside County, California* (March 1996) (SKR HCP). Although the MSHCP covers SKR, within the SKR HCP plan area, take of SKR is addressed under the SKR HCP. Neither Caltrans nor RCTC are permittees under the SKR HCP. In order to rely on the analysis of the incidental take coverage provided the SKR HCP, the

proposed action must be consistent with the SKR HCP and its associated implementation agreement and permit.

This biological opinion is based on information provided in the following documents: (1) *Intra-Service Formal Section 7 Consultation/Conference for Issuance of Endangered Species Act Section 10(a)(1)(B) Permit TE-088609-0 for the Western Riverside County Multiple Species Habitat Conservation Plan*, dated June 22, 2004 (FWS-WRIV-870.19); (2) *Mid County Parkway, Riverside County, California, 08-RIV-MCP PM 0.0/16.3; 08-RIV-215 PM 28.0/34.3 EA 08-0F3200 Administrative Draft Final Environmental Impact Report / Environmental Impact Statement and Final Section 4(f) Evaluation* (MCP EIR/EIS), dated November 25, 2014; (3) *Mid County Parkway MSHCP Consistency Determination Including Determination of Biologically Equivalent or Superior Preservation Analysis* (MCP DBESP), dated September 2014; (4) *Addendum to MSHCP Consistency Determination and Determination of Biologically Equivalent or Superior Preservation Analysis (Mid County Parkway)* (MCP DBESP Addendum), dated October 24, 2014; (5) a letter dated November 14, 2014 from the Service and California Department of Fish and Game (CDFW) documenting the consistency of the proposed Project with the MSHCP (FWS/CDFG-08B0080-15CPA0013-15E00145); (6) *Intra-Service Section 7 Consultation on Fish and Wildlife Service Issuance of an Incidental Take Permit for the Long-term Stephens' kangaroo rat Habitat Conservation Plan* dated May 2, 1996 (1-6-96-FW-27); (7) a letter from your agency requesting initiation of formal section 7 consultation, received December 12, 2014; and (8) electronic and verbal communication with FHWA, Caltrans, RCTC, and their designated representatives.

The proposed Project will create a new 16-mile 6 lane, limited access east-west facility, known as Mid County Parkway (MCP) between Interstate 215 (I-215) in the west and State Route 79 (SR-79) east. The MCP alignment will replace much of the existing Ramona Expressway. The MCP includes two system interchanges at I-215 and SR-79, and 10 local interchanges between. This facility is identified within the MCP EIR/EIS as Alternative 9 Modified. Caltrans standard design features are incorporated into and include a 62-foot median with a three-beam guardrail. The MCP will utilize much of the existing Ramona Expressway footprint from SR-79 in the east to Lake Perris in the west. Two existing segments of the Ramona Expressway will remain in place; these are (1) Ramona Expressway from Warren Road to the current intersection of SR-79 and (2) Martin Street to Lakeview Avenue. These two segments will remain in place for future connectivity under the Riverside County General Plan Circulation Element.

Project right-of-way acquisition will vary depending on existing topology and connectivity. In general, of right-of-way will range from 200-350 feet along the length of the facility, with a maximum expected width of 1,700 feet at interchange locations. Additional design features are identified in Chapter 2 of the EIR/EIS.

#### *Impacts to Federally Listed Species*

For the purpose of consultation, all impacts, temporary or permanent, to suitable and potentially suitable habitat for federally listed species, and designated critical habitat for both navarretia and SBKR are considered permanent within the proposed Project's right-of-way. Project-related impact to listed species and critical habitat are provided in Table 1.

Table 1. Impacts to federally listed species, designated critical habitat, and suitable habitat (in acres).

	Spreading navarretia (occupied habitat)	Spreading navarretia, designated critical habitat (non- occupied)	San Jacinto Valley crownscale (occupied habitat)	Coastal California gnatcatcher (Riversidean upland sage scrub)	SKR (Riversidean upland sage scrub and grassland communities) (occupied)	SBKR, designated critical habitat and suitable habitat (non- occupied)	Least Bell's vireo (occupied riparian habitat)
MCP Preferred Alternative (Alt 9 Modified SJRB DV)	1.09	18.6	0.36	86.3	194.3	2.79	3.6

Impacts include, but are not limited to vegetation removal, soil disturbance, creation and use of temporary access roads, staging of construction material, right-of-way footprint, areas of cut and fill, and shading impacts. Lighting will not be installed along the facility with the exception of installation within existing developed areas and planned interchanges. Chapter 3.21 of the MCP EIS/EIR detail additional direct and indirect effects to federally listed species.

### ***MSHCP Consistency***

As an MSHCP Covered Activity (Sections 7.1, 7.2.2, and 7.3.5 and Figure 7-1 of the MSHCP) the project needs to demonstrate compliance with Sections 6.1.2, 6.1.3, 6.1.4, 6.3.2, 7.5.1, 7.5.2 and 7.5.3 of the MSHCP (Appendix T of the MCP EIS/EIR 2014).

#### ***Section 6.1.2 (Riparian/Riverine)***

In accordance with the MSHCP Riparian/Riverine and Vernal Pools Policy, Section 6.1.2, a Determination of Biologically Equivalent or Superior Preservation (DBESP) was prepared to address the impacts to Riparian/Riverine habitat. Impacts to Riparian/Riverine resources, as defined in the MSHCP, include 4.99 acres of riparian habitat and 36.61 acres of riverine areas, for a total of 41.6 acres (MCP DBESP).

Of the 4.99 acres of riparian habitat impacted, 3.66 acres consist of suitable vireo habitat proximal to the San Jacinto River and Sanderson Road, at the eastern end of the Project area. Impacts to suitable habitat are a result of permanent shading due to bridge modifications, grading, and other disturbance related to Project activities. Although vireo surveys in 2005, 2010, and 2011 were negative, RCTC considers all 3.66 acres occupied by vireo habitat based on historical observations (Appendix T; MCP EIR/EIS).

To offset impacts to vireo and riparian/riverine habitat, RCTC will: (1) acquire 11 acres of riparian habitat, consisting of suitable or occupied vireo habitat, otherwise an additional 11 acres will be acquired; (2) 74.17 acres of alkali riverine areas within the San Jacinto River floodplain

for off-site preservation and/or restoration/enhancement; and (3) 11 acres of riverine areas for off-site preservation, restoration and/or enhancement (Appendix T; MCP EIR/EIS). Once these lands are acquired, RCTC will transfer ownership to the Western Riverside Regional Conservation Authority (RCA) or other approved land management entity for long-term conservation, consistent with the requirements of the MSHCP. The land transfer will be reviewed and approved by all participating agencies before being accepted.

#### *Section 6.1.3 (Narrow Endemic Plant Species Survey Areas)*

This Project site is within MSHCP Narrow Endemic Plant Species Survey Areas 3 and 3a. Pursuant to the MSHCP, focused botanical surveys were conducted in 2005 and 2006 for the following species:

- California Orcutt Grass (*Orcuttia californica*);
- many-stemmed dudleya (*Dudleya multicaulis*);
- Munz's onion (*Allium munzii*);
- San Diego ambrosia (*Ambrosia pumila*);
- spreading navarretia (*Navarretia fossalis*); and
- Wright's trichocoronis (*Trichocoronis wrightii* var. *wrightii*)

The only narrow endemic species observed and impacted within the Project footprint, is spreading navarretia. Consistent with MSHCP Section 6.1.3, a DBESP was prepared to address effects to NEPSSA species. To offset impacts to individual navarretia plants and occupied navarretia habitat, RCTC will to acquire and conserve lands containing suitable or occupied navarretia habitat for the species at a 3:1 ratio, 3.3 acres prior to ground disturbing activities (MCP DBESP Addendum). Once this land is secured, RCTC will relinquish ownership to the Western Riverside Regional Conservation Authority (RCA) or other approved land management entity for long-term conservation, consistent with the requirements of the MSHCP. The land transfer will be reviewed and approved by all participating agencies before being accepted.

#### *Section 6.1.4 (Guidelines pertaining to Urban/Wildlands Interface)*

Per MSHCP Section 6.1.4, with the presence of current and future conservation areas within or near the Project area, RCTC and Caltrans have incorporated avoidance and minimization measures to control adverse effects related to Project implementation. These measures include (1) controlling the quantity and quality of surface runoff from the facility, (2) preclude the utilization of any chemicals potentially toxic to wildlife, habitat, or water sources, (3) lighting will be shielded to direct light downward and only installed in currently developed areas and planned interchanges, (4) vegetation removal will not occur within Criteria Areas or Public/Quasi-Public lands during bird breeding season, (5) non-native species, as presented in Table 6-2 of the MSHCP, will not be utilized, (6) permanent fencing will be installed along the entire length of the MCP, and (7) manufactured slopes will not extend into any MSHCP

Conservation Area. Please see MCP DBESP within Appendix T of the EIS/EIR for additional details.

*Section 6.3.2 (Additional Survey Needs and Procedures)*

Per MSHCP Section 6.3.2, the Project area overlaps with Criteria Area Species Survey Area(s) 3 and 3a, Mammal Survey Area 2 and 3 (Los Angeles Pocket Mouse and SBKR respectively), and Burrowing Owl Survey Areas.

Criteria Area Species Survey Area 3 and 3a

Pursuant to the MSHCP, focused botanical surveys were conducted in 2005 and 2006 for the following species:

- Coulter's goldfields (*Lasthenia glabrata* ssp. *coulteri*);
- Davidson's saltscale (*Atriplex serenana* var. *davidsonii*);
- little mousetail (*Myosurus minimus*);
- Parish's brittlescale (*Atriplex parishii*);
- prostrate navarretia (*Navarretia prostrata*);
- round-leaved filaree (*California macrophyllum* [*Erodium m.*]);
- San Jacinto Valley crownscale (*Atriplex coronata* var. *notatior*);
- smooth tarplant (*Centromadia pungens* ssp. *laevis* [*Hemizonia p.* ssp. *l.*]); and
- thread-leaved brodiaea (*Brodiaea filifolia*)

San Jacinto Valley crownscale, smooth tarplant, and Coulter's goldfields were observed within the project footprint during the 2005 and 2006 surveys.

In accordance with MSHCP Section 6.3.2, a DBESP was prepared to address effects to San Jacinto Valley crownscale, smooth tarplant, and Coulter's goldfields in areas with long-term conservation value. To offset impacts to San Jacinto Valley crownscale, smooth tarplant, and Coulter's goldfields, RCTC proposes to acquire and conserve lands containing 6 acres of occupied habitat and 12 additional acres of alkali floodplain suitable for enhancement prior to ground disturbing activities.

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Once these lands are secured, RCTC will relinquish ownership to the RCA or other approved land management entity for long-term conservation, consistent with the requirements of the MSHCP. The land transfer will be reviewed and approved by all participating agencies before being accepted.

In addition to the purchase of off-site habitat, per conservation measure PS-1 (Chapter 3.19; MCP EIS/EIR), the RCTC Project Manager will ensure a qualified botanist collects smooth tarplant seeds for dispersal in appropriate habitat on mitigation lands acquired for conservation. Seed collection will occur during the fall season (September 1 to November 30), prior to project related disturbance of the smooth tarplant locations.

Small Mammal Survey Areas

The MCP falls within MSHCP the Small Mammal Survey Areas for Los Angeles pocket mouse (*Perognathus longimembris brevinasus*, LAPM) and SBKR.

### *LAPM*

Presence/absence surveys conducted between July and August 2005 detected LAPM inhabiting approximately 44 acres of the Project footprint. The Project made substantial effort to minimize its impacts to LAPM. Project design modifications resulted in avoidance of 23.15 acres of LAPM habitat with long-term conservation value. With adjustments to the proposed Project alignment, 20.85 acres of occupied LAPM containing suitable will be permanently impacted. A DBESP was prepared to address effects to LAPM from project related impacts to 20.85 acres with long-term conservation value. To off-set impacts to the 20.85 acres of LAPM habitat, RCTC will acquire and conserve 42 acres of known to support the species prior to ground breaking. Mitigation land will be located adjacent to or near to existing conserved lands containing LAMP (Appendix T; MCP EIR/EIS).

### *SBKR*

Of the 36.23 acres of suitable SBKR habitat present within the Project footprint within the San Jacinto floodplain on the eastern portion of the Project area, 1.29 acres of SBKR habitat will be permanently impacted by construction of the MCP. Although presence/absence surveys conducted in July 2005 met with negative results, RCTC considers these 1.29 acres of suitable SBKR habitat occupied. This is based on other surveys unrelated to the MCP documenting the species presence in the vicinity of the San Jacinto River/State Route 79 area. To offset impacts to SBKR, RCTC will acquire and conserve 4 acres of SBKR habitat prior to ground disturbing activities. SBKR Mitigation land will be located adjacent to or near to existing conserved lands supporting LAMP, contain soils and vegetation suitable for SBKR, and be located within the SBKR survey area or otherwise approved by the Service and California Department of Fish and Game (Appendix T; MCP EIR/EIS)

Once mitigation lands for both LAPM and SBKR are secured, RCTC will relinquish them to the RCA or other approved land management entity for long-term conservation, consistent with the requirements of the MSHCP. The land transfer will be reviewed and approved by all participating agencies before being accepted.

### Burrowing Owl Survey Area

The Project overlaps with the MSHCP burrowing owl (*Athene cunicularia hypugaea*) survey area. Survey efforts in 2010 and 2011 detected one burrowing owl within the Project footprint. The RCTC has determined this burrowing owl and 3.1 acres of associated foraging habitat will be impacted by Project activities. Due to the length of time between the burrowing owl surveys and ground disturbance associated with Project construction, RCTC will require the Project contractor adhere to conservation measures AS-1 through AS-3 in Chapter 3.20 of the EIS/EIR and the MCP DBESP (Appendix T; MCP EIR/EIS). These conservation measures include assessment of burrowing owl habitat (AS-1), avoidance of active burrowing owl nests (AS-2), the development of a Burrowing Owl Relocation/Translocation Plan (AS-3), and preconstruction surveys at least 120 days ahead of project disturbance.

### *Section 7.5.1 (Guidelines for the Siting and Design of Planned Roads Within the Criteria Area and Public/Quasi-Public Lands)*

As designed, the Project demonstrates consistency with the biological goals and objectives as set forth in Section 7.5.1 of the MSHCP. Section 7.5 of the MSHCP addresses the Guidelines for Facilities within the Criteria Area and Public/Quasi Public (PQP) Lands. The proposed Project has or will implement the conditions set forth in Section 7.5.1 through the design process, or will through the implementation process. The DBESP, and Table 7 contained therein, outline how the MCP will comply with the siting and design criteria (Appendix T; MCP EIR/EIS).

Per Section 3.17 conservation measure MC-3 (EIS/EIR), to avoid impacts to nesting birds, if Project construction activities occur between February 15 and September 15, surveys for nesting birds will be conducted by qualified biologists within 300 feet of the Project footprint 3 days prior to the commencement of Project related activities. Should nesting activity be detected within 300 feet of the construction area, RCTC and Caltrans will establish a 300 feet (500 feet for raptors) fenced buffer area around the nest, to exclude construction activities. The fenced buffer area will not be disturbed until the young have fledged or the nest becomes inactive.

#### *Conclusion Based on Consistency with the MSHCP*

Based on our review of the information provided to us, we have determined that the proposed Project is consistent with relevant MSHCP policies and procedures. The status of crownscale, vireo, SBKR, navarretia, and gnatcatcher and the effects of implementing the MSHCP were previously addressed in our biological opinion dated June 22, 2004, in which we concluded that the level of anticipated take in the MSHCP Plan Area was not likely to result in jeopardy to these species. We do not anticipate any adverse effects to crownscale, vireo, SBKR, navarretia, or gnatcatcher that were not previously evaluated in the biological opinion for the MSHCP. Therefore, it is our conclusion that implementation of the proposed Project will not result in jeopardy to crownscale, vireo, SBKR, navarretia, or gnatcatcher.

#### *SKR HCP Consistency*

As indicated in Table 1, the MCP will impact 194.3 acres of suitable and/or potentially suitable habitat for SKR. This estimate includes all potentially suitable habitat within the Project impact area regardless of the vegetation quality. No surveys were conducted and SKR were assumed to be present in the Project's impact area. To offset impacts to SKR and its associated habitat, the RCTC will implement the mitigation measures as identified in the riparian-alkaline communities DBESP discussion (Appendix T; MCP EIR/EIS).

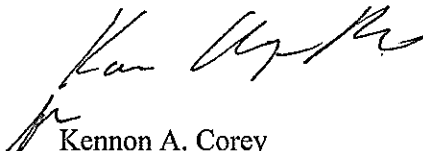
The SKR HCP is implemented by the Riverside County Habitat Conservation Agency (RCHCA) on behalf of the County of Riverside and eight member cities. To establish a regional mechanism to fund implementation of the SKR HCP, Riverside County Ordinance No. 663.10 was adopted, which requires the payment of a fee for projects that are inside the SKR HCP fee area but outside of the core reserve system. This funding has been used, in part, to establish and manage a core reserve system designed to maintain the long-term survival of SKR in western Riverside County. The proposed project is within the SKR HCP fee area, but outside of the core reserves, and therefore would qualify to obtain take coverage through payment of fees. However, public works

projects, such as roads, are exempt from fee payment. Therefore, we have determined that the proposed project is consistent with the SKR HCP and its associated implementing agreement and permit.

The status of the SKR and the effects of implementing the SKR HCP were previously addressed in our biological opinion dated May 2, 1996. In the biological opinion for the SKR HCP, we concluded that the level of anticipated take in the SKR HCP plan area was not likely to result in jeopardy to the SKR. Given that the proposed action is consistent with the SKR HCP, we do not anticipate any adverse effects to the SKR that were not previously evaluated in the biological opinion for the SKR HCP. No incidental take of SKR beyond that anticipated in the biological opinion for the SKR HCP will occur. Therefore, it is our conclusion that implementation of the proposed Project will not result in jeopardy to the SKR.

This concludes formal consultation on the proposed action. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the proposed action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat is designated that may be affected by the proposed action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation. Should you have any questions regarding the species listed or your responsibilities under the Act, please contact John M. Taylor of this office at 760-322-2070, extension 218.

Sincerely,



Kennon A. Corey  
Assistant Field Supervisor